



Federal Communications Commission
Washington, D.C. 20554

DA 05-3249
December 22, 2005
1800E3-JLB

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Re: Application for Assignment
Of Construction Permit
K15CC, San Antonio, Texas
File No. BAPTTL-900112IA
Facility ID No. 25713

Dear Counsel:

This is with respect to the pleading seeking reconsideration of the January 21, 2005, letter decision of the Chief, Video Division, reaffirming the staff's dismissal of the above-captioned application for assignment of the construction permit for unbuilt low power television (LPTV) station K15CC, channel 15, San Antonio, Texas, from Gwendolyn May to Faith Pleases God Church Corporation (Faith), and cancellation of the construction permit. Louis Martinez, licensee of LPTV station KBLM-LP in San Antonio, filed an opposition to the petition for reconsideration.

It is undisputed that May's construction permit for K15CC expired on October 24, 1989, that the above-referenced application to assign the permit to Faith was not filed until January 12, 1990, and that the Commission's rules prohibited the acceptance of an application to assign an unbuilt construction permit filed after the expiration of the initial construction permit.¹ May contends, however, that the Division incorrectly concluded that she had not filed "another extension/reinstatement request" to extend the permit. According to May, she filed an application for major modification of the construction permit on December 8, 1989, and "an application for major modification of an expired construction permit would of necessity have included a request for reinstatement and extension of the permit."

May is simply wrong. As Martinez points out, the rules then in effect required that May file an FCC Form 307 requesting reinstatement of her permit within 30 days of the expiration of the permit.² Form 307 specifically required submission of an exhibit explaining "the reason for not submitting a timely extension application, together with the reason why construction was not completed during the period

¹ See 47 C.F.R. § 73.3535(d)(1989).

² See 47 C.F.R. § 73.3534(a) and (e)(1989).

specified in the construction permit or subsequent extensions,” as well as certification that the representations contained in the initial application for a construct permit remained true and correct.³ None of this information was elicited by the FCC Form 346 which May filed on December 9, 1989.⁴ Moreover, the staff found that on reconsideration, May failed to satisfy the strict "one-in-three" test for reinstatement and assignment of a broadcast construction permit in effect at the time. *See Mansfield Christian School*, 10 FCC Rcd 12589, 12590 (1995).⁵

May also argues, again, that in rescinding the grant of the assignment, the staff erred in relying on the additional ground that its initial grant of the application was premature.⁶ In support of her argument, May cites to *Amendment of the Commission's Rules Regarding the Computation of Time*, 6 FCC Rcd 4797 (1991), which was published the year after the assignment application was granted prematurely. The applicable authority, however, is *Amendment of the Commission's Rules Regarding Computation of Time*, 2 FCC Rcd 7402 (1987), and we once again conclude that the staff correctly applied 47 C.F.R. § 1.4(b)(1990) in rescinding the grant of the assignment application as premature.

In view of the foregoing, the petition for reconsideration filed by Gwendolyn May IS HEREBY DENIED.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Faith Pleases God Church Corporation

³ See FCC Form 307, Questions 7 and 8 (June 1988).

⁴ See FCC Form 346 (February 1988).

⁵ The staff also correctly rejected May's assertion that she should be credited, in connection with the required "one-in-three" showing for reinstatement of the San Antonio construction permit, with having made substantial progress towards construction based upon a transmitter purportedly acquired by Faith for its Portland LPTV station, citing *Mansfield Christian School*.

⁶ Section 309(b) of the Communications Act requires that an application to assign a broadcast authorization be placed on public notice for a period of thirty days before it may be granted.